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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/294,181	04/19/99	HOFFMAN	W E-1654CIP

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EXAMINER

FULTON, C

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 08/30/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/294,181

Applicant(s)
Hoffman

Examiner
Christopher W. Fulton

Group Art Unit
2859



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-30 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-30 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Priority

1. The disclosure is objected to because of the following informalities: The status of the parent application cited on the first page of the specification needs to be updated.

Appropriate correction is required.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first and second sets of indicia being on opposite surfaces of the blade cited in claim 29 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 29 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 29 is vague and indefinite because "said first end second set" is unclear.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 22, and 25 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ballou or McCully.

7. Claims 1, 3, 22, and 25 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Canfield.

8. Claims 14-17, 26, and 30 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Drechsler.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2, 6-8, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Canfield in view of Drechsler.

The device as claimed is disclosed by Canfield as stated in the rejection recited above for claims 1, 3, 22, and 25, but lacks a second set of indicia upside down from the first so the tape can be used from either side of the device. Drechsler teaches using a second set of indicia upside down from the first so the device can be used from either side. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add a second set of indicia to Canfield that is upside down from the first as taught by Drechsler so the indicia can be view as right side up from either side of the device.

11. Claims 9, 10, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Canfield in view of Pinney, Jr. et al.

The device as claimed is disclosed by Canfield as stated in the rejection recited above for claims 1, 3, 22, and 25, but lacks the tab being comprised of a base removably insertable into a slot of an extension with the extension extending in two direction transverse to the blade so the extension can be removed from the blade. Pinney, Jr. et al teaches using a tab comprised of a base 12 and a removable extension 15 with a slot 18 so the extension can be easily removed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tab of Canfield of two sections as taught by Pinney, Jr. et al so the extension having a slot can be easily removed from the base section.

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12. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Drechsler in view of Ballou.

The device as claimed is disclosed by Canfield as stated in the rejection recited above for claims 14-17, 26, and 30, but lacks the tab extending in two directions transverse to the blade. Ballou teaches using a tab that extends in two directions 5,6 that are transverse to the blade so the tab can be hooked to an object with the blade above or below the object. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tab of Drechsler extend in two directions that are transverse to the blade as taught by Ballou so the device can be attached to an object with the blade on above or below the object.

13. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Drechsler in view of Ballou as applied to claim 18 above, and further in view of Pinney, Jr. et al.

The device as claimed is disclosed by the combination of Drechsler and Ballou together as stated in the rejection recited above for claim 18, but lack the tab being comprised of a base removably insertable into a slot of an extension with the extension extending in two direction transverse to the blade so the extension can be removed from the blade. Pinney, Jr. et al teaches using a tab comprised of a base 12 and a removable extension 15 with a slot 18 so the extension can be easily removed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tab of the combination of Drechsler and Ballou together of two sections as taught by Pinney, Jr. et al so the extension having a slot can be easily removed from the base section.

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Double Patenting

14. Claims 1-28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 5,894,677. Although the conflicting claims are not identical, they are not patentably distinct from each other because The broader claims of the application are encompassed by the claims of the patent.

15. Claims 29 and 30 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 5,894,677 in view of Drechsler. The device as claimed is substantially disclosed and claimed by U.S. Patent No. 5,894,677, but lack the indicia being on opposite surfaces of the blade so the indicia can be read from the top or the bottom of the device. Drechsler teaches using indicia on the top and bottom surfaces of a blade so the indicia can be read from the top or the bottom of the device. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add indicia to the bottom of the blade of U.S. Patent No. 5,894,677 as taught by Drechsler so the indicia can be read from the bottom of the device as well as the top.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Christopher W. Fulton whose telephone number is (703) 308-3389. The examiner can normally be reached on Monday - Thursday from 6:30 to 4:00 Eastern time.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. F. Gutierrez, can be reached on (703) 308-3875. The fax phone number for this Group is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

CWF
August 28, 2000

A handwritten signature in black ink, appearing to read 'Christopher W. Fulton', with a stylized, cursive script.

Christopher W. Fulton
Primary Examiner
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